
SENATE BILL No. 499

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-4.

Synopsis: Research expense tax credits. Increases the amount of the research expense tax credit from 5% to 20% of a taxpayer's Indiana qualified research expenses. Removes current limitations on the credit for a taxpayer who has income apportioned to the state for a taxable year. Allows unused research expense tax credits to be transferred to another taxpayer in return for financial assistance. Extends the credit through 2007.

Effective: July 1, 2002.

Clark

January 14, 2002, read first time and referred to Committee on Finance.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 499

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-4-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this
- 3 chapter:
- 4 "Base amount" means base amount (as defined in Section 41(c) of
- 5 the Internal Revenue Code **as in effect on January 1, 2001**).
- 6 "Base period Indiana qualified research expense" means base period
- 7 research expense that is incurred for research conducted in Indiana.
- 8 "Base period research expense" means base period research expense
- 9 (as defined in Section 41(c) of the Internal Revenue Code before
- 10 January 1, 1990).
- 11 "Indiana qualified research expense" means qualified research
- 12 expense that is incurred for research conducted in Indiana.
- 13 "Qualified research expense" means qualified research expense (as
- 14 defined in Section 41(b) of the Internal Revenue Code **as in effect on**
- 15 **January 1, 2001**).
- 16 "Pass through entity" means:
- 17 (1) a corporation that is exempt from the adjusted gross income



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- 1 tax under IC 6-3-2-2.8(2);
 2 (2) a partnership;
 3 (3) a limited liability company; or
 4 (4) a limited liability partnership.

5 "Research expense tax credit" means a credit provided under this
 6 chapter against any tax otherwise due and payable under IC 6-2.1 or
 7 IC 6-3.

8 "Taxpayer" means an individual, a corporation, a limited liability
 9 company, a limited liability partnership, a trust, or a partnership.

10 SECTION 2. IC 6-3.1-4-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. ~~(a)~~ A taxpayer who
 12 incurs Indiana qualified research expense in a particular taxable year
 13 is entitled to a research expense tax credit for the taxable year ~~(b)~~ ~~A~~
 14 ~~taxpayer who does not have income apportioned to this state for a~~
 15 ~~taxable year under IC 6-3-2-2 is entitled to a research expense tax~~
 16 ~~credit for the taxable year~~ in the amount of the product of:

- 17 (1) five percent (5%); multiplied by
 18 (2) the remainder of the taxpayer's Indiana qualified research
 19 expenses for the taxable year, minus:
 20 (A) the taxpayer's base period Indiana qualified research
 21 expenses, for taxable years beginning before January 1, 1990;
 22 or
 23 (B) the taxpayer's base amount, for taxable years beginning
 24 after December 31, 1989.

25 ~~(c) A taxpayer who has income apportioned to this state for a~~
 26 ~~taxable year under IC 6-3-2-2 is entitled to a research expense tax~~
 27 ~~credit for the taxable year in the amount of the lesser of:~~

- 28 ~~(1) the amount determined under subsection (b); or~~
 29 ~~(2) five percent (5%) multiplied by the remainder of the taxpayer's~~
 30 ~~total qualified research expenses for the taxable year, minus:~~
 31 ~~(A) the taxpayer's base period research expenses, for taxable~~
 32 ~~years beginning before January 1, 1990; or~~
 33 ~~(B) the taxpayer's base amount, for taxable years beginning~~
 34 ~~after December 31, 1989;~~
 35 ~~further multiplied by the percentage determined under IC 6-3-2-2~~
 36 ~~for the apportionment of the taxpayer's income for the taxable~~
 37 ~~year to this state.~~

38 SECTION 3. IC 6-3.1-4-4 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. The provisions of
 40 Section 41 of the Internal Revenue Code **as in effect on January 1,**
 41 **2001**, and the regulations promulgated in respect to those provisions
 42 are applicable to the interpretation and administration by the



department of the credit provided by this chapter, including the allocation and pass through of the credit to various taxpayers and the transitional rules for determination of the base period.

SECTION 4. IC 6-3.1-4-6, AS AMENDED BY P.L.4-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, ~~2002~~ 2007. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 5. IC 6-3.1-4-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **The department of commerce shall establish a research expense tax credit benefit certificate transfer program to allow persons with unused amounts of research expense tax credits to surrender those tax benefits for use by other persons that are not an affiliate, as determined under the attribution rules under Section 318 of the Internal Revenue Code, as in effect on January 1, 2001. The tax benefits may be used on the tax returns to be filed by the recipient or, if the recipient is a pass through entity, the partners or shareholders of the recipient in exchange for private financial assistance to be provided by the recipient of the research expense tax credit benefit certificate to the person that accrued the tax credit to assist the person in the funding of costs incurred by the person.**

(b) **To be eligible to receive a transferred credit, a taxpayer that is the recipient of the research expense tax credit benefit certificate must:**

- (1) **provide private financial assistance to the person that accrued the research expense tax credit in an amount equal to at least seventy-five percent (75%) of the amount of the surrendered tax benefit;**
- (2) **obtain the approval of the department of commerce; and**
- (3) **comply with the filing requirements specified in this section.**

(c) **To claim a transferred research expense credit, a recipient must file with the department of state revenue:**

- (1) **in the form that the department of state revenue may prescribe, an application stating the amount of:**



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- 1 (A) the private financial assistance that the recipient
2 proposes to provide in exchange for a research expense tax
3 credit that would qualify for a tax credit; and
4 (B) the amount sought to be claimed as a credit;
5 (2) a certificate evidencing approval of the private financial
6 assistance by the director of the department of commerce;
7 and
8 (3) a statement, in the form and accompanied by the proof of
9 payment as the department of state revenue prescribes,
10 setting forth that the amount to be claimed as a credit under
11 this chapter has been paid to the person accruing the credit
12 for an approved program or purpose, or permanently set
13 aside in a special account to be used solely for an approved
14 program or purpose.
15 (d) The department may disallow any credit claimed under this
16 section that does not comply with this section.
17 (e) A transferred tax credit may be used only for the taxable
18 year in which private financial assistance is provided to the person
19 that accrued the tax credit.
20 SECTION 6. [EFFECTIVE JULY 1, 2002] (a) IC 6-3.1-4-2, as
21 amended by this act, and IC 6-3.1-4-8, as added by this act, apply
22 only to taxable years beginning after December 31, 2002.
23 (b) IC 6-3.1-4-6, as amended by this act, applies to taxable years
24 beginning after June 30, 2002.

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